



## Senate

General Assembly

**File No. 340**

January Session, 2015

Substitute Senate Bill No. 975

*Senate, March 31, 2015*

The Committee on General Law reported through SEN. LEONE of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT MAKING MINOR AND TECHNICAL CHANGES TO DEPARTMENT OF CONSUMER PROTECTION STATUTES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-173 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 Any organization desiring to operate a bazaar or raffle in a  
4 municipality which has adopted the provisions of sections 7-170 to 7-  
5 186, inclusive, shall make application, [in duplicate,] duly executed  
6 and verified, to the Commissioner of Consumer Protection on a form  
7 to be prescribed by the commissioner, in which shall be stated (1) the  
8 name and address of the applicant; (2) facts relating to its  
9 incorporation or organization; (3) the names, titles and addresses of its  
10 officers; (4) the kind of bazaar or raffle intended to be held, operated  
11 and conducted by the applicant; (5) the place where such bazaar or  
12 raffle is intended to be conducted by the applicant under the permit  
13 applied for; (6) the date or dates and the time or times when such  
14 bazaar or raffle is intended to be conducted by the applicant under the

15 permit applied for; (7) in the case of a raffle, the number and price of  
16 tickets intended to be sold; (8) the items of expense intended to be  
17 incurred or paid in connection with the holding, operating and  
18 conducting of such bazaar or raffle and the names and addresses of the  
19 persons to whom, and the purposes for which, they are to be paid; (9)  
20 the items of merchandise offered, the price to be paid by the  
21 organization therefor or the retail value of any prize donated, and the  
22 names and addresses of the persons from whom purchased or by  
23 whom donated; (10) the specific purposes to which the entire net  
24 proceeds of such bazaar or raffle are to be devoted and in what  
25 manner; and (11) any other information which the commissioner  
26 reasonably requires for the protection of the public. In each application  
27 there shall be designated three active members of the applicant under  
28 whom the bazaar or raffle described in the application is to be held,  
29 operated and conducted and to the application shall be appended a  
30 statement signed, under penalty of false statement, by such members  
31 so designated that they are residents of this state and will be  
32 responsible for the holding, operation and conduct of such bazaar or  
33 raffle in accordance with the terms of the permit and the provisions of  
34 said sections, and that the statements contained in the application are,  
35 to the best of their knowledge and belief, true. [The commissioner shall  
36 forward the duplicate copy of such application to the chief of police of  
37 the municipality or, if there is no police department, to the chief  
38 executive officer of the municipality. For the purposes of applying for  
39 a "Class No. 7" permit, authorized pursuant to section 7-175, the  
40 application required pursuant to this section shall be retained by the  
41 commissioner.]

42 Sec. 2. Section 7-176 of the general statutes is repealed and the  
43 following is substituted in lieu thereof (*Effective October 1, 2015*):

44 The fees to be charged for permits and submitted to the  
45 Commissioner of Consumer Protection at the time of application shall  
46 be as follows: A "Class No. 1" permit, fifty dollars, twenty-five dollars  
47 to be retained by the state at the time application for the permit is  
48 made and twenty-five dollars remitted to the municipality upon

49 issuance of the permit; a "Class No. 2" permit, twenty dollars, ten  
50 dollars to be retained by the state at the time application for the permit  
51 is made and ten dollars to be remitted to the municipality upon  
52 issuance of the permit; a "Class No. 3" permit, twenty dollars for each  
53 day of the bazaar, ten dollars to be retained by the state at the time  
54 application for the permit is made and ten dollars to be remitted to the  
55 municipality upon issuance of the permit; a "Class No. 4" permit, five  
56 dollars, to be remitted to the municipality; a "Class No. 5" permit,  
57 eighty dollars, forty dollars to be retained by the state at the time  
58 application for the permit is made and forty dollars remitted to the  
59 municipality upon issuance of the permit; a "Class No. 6" permit, one  
60 hundred dollars, fifty dollars to be retained by the state at the time  
61 application for the permit is made and fifty dollars remitted to the  
62 municipality upon issuance of the permit; and a "Class No. 7" permit,  
63 one hundred dollars to be retained by the state.

64 Sec. 3. Subsection (h) of section 7-185a of the general statutes is  
65 repealed and the following is substituted in lieu thereof (*Effective*  
66 *October 1, 2015*):

67 (h) (1) Any sponsoring organization qualified to conduct a bazaar or  
68 raffle under the provisions of section 7-172 may operate a golf ball-  
69 drop raffle once each calendar year. Any such raffle shall conform to  
70 the provisions of sections 7-170 to 7-186, inclusive, and shall be subject  
71 to regulation by the Commissioner of Consumer Protection. For the  
72 ~~[purpose]~~ purposes of this subsection, "golf ball-drop raffle" means a  
73 raffle in which golf balls, numbered consecutively to correspond with  
74 the number of tickets sold for such raffle, are dropped from a pay  
75 loader, bucket truck, crane or similar vehicle, platform, helicopter, hot  
76 air balloon or other aircraft hovering above a designated target, and in  
77 which the ticket corresponding to the number of the first golf ball to be  
78 closest to the center of the designated target is the winning ticket. (2)  
79 The commissioner shall adopt regulations, in accordance with chapter  
80 54, establishing procedures for the operation of golf ball-drop raffles.

81 Sec. 4. Section 20-304a of the general statutes is repealed and the

82 following is substituted in lieu thereof (*Effective October 1, 2015*):

83 (a) The board may issue an automatic fire sprinkler system layout  
84 technician's license to any person who has received level III  
85 certification from the National Institute for Certification in Engineering  
86 Technologies in the field of fire protection engineering technology or a  
87 subfield of automatic sprinkler system layout. Any person who is a  
88 professional engineer licensed in accordance with the provisions of  
89 this chapter [, a plumbing and piping journeyman licensed pursuant to  
90 chapter 393, a plumbing and piping contractor licensed pursuant to  
91 chapter 393 or a journeyman sprinkler fitter licensed pursuant to  
92 chapter 393] shall be exempt from such licensing requirement.

93 (b) The Commissioner of Consumer Protection shall adopt  
94 regulations, in accordance with chapter 54, for the issuance of  
95 automatic fire sprinkler system layout technician's licenses and to  
96 prescribe the amount of the fees required pursuant to this section.  
97 Upon the adoption of such regulations, the fees required [by this  
98 section] for such licenses shall be as prescribed in such regulation.

99 Sec. 5. Section 20-417i of the general statutes is repealed and the  
100 following is substituted in lieu thereof (*Effective October 1, 2015, and*  
101 *applicable to orders and decrees entered on or after said date*):

102 (a) The commissioner shall establish and maintain the New Home  
103 Construction Guaranty Fund.

104 (b) Each person who receives a certificate pursuant to sections 20-  
105 417a to 20-417j, inclusive, shall pay a fee of four hundred eighty dollars  
106 biennially to the fund. Such fee shall be payable with the fee for an  
107 application for a certificate or renewal of a certificate.

108 (c) (1) For fiscal years commencing on or after July 1, 2003,  
109 payments received under subsection (b) of this section shall be  
110 credited to the New Home Construction Guaranty Fund until the  
111 balance in the fund equals seven hundred fifty thousand dollars.  
112 Annually, if the balance in the fund exceeds seven hundred fifty

113 thousand dollars, the first three hundred thousand dollars of the  
114 excess shall be deposited in the consumer protection enforcement  
115 account established in section 21a-8a. On June 1, 2004, and each June  
116 first thereafter, if the balance in the fund exceeds seven hundred fifty  
117 thousand dollars, the excess shall be deposited in the General Fund.

118 (2) Any money in the New Home Construction Guaranty Fund may  
119 be invested or reinvested in the same manner as funds of the state  
120 employees retirement system and the interest arising from such  
121 investments shall be credited to the fund.

122 (d) Beginning October 1, 2000, whenever a consumer obtains a court  
123 judgment, order or decree against any new home construction  
124 contractor holding a certificate or who has held a certificate under  
125 sections 20-417a to 20-417j, inclusive, within the past two years of the  
126 date of entering into the contract with the consumer, for loss or  
127 damages sustained by reason of any violation of the provisions of  
128 sections 20-417a to 20-417j, inclusive, by a person holding a certificate  
129 under said sections, such consumer may, upon the final determination  
130 of, or expiration of time for taking, an appeal in connection with any  
131 such judgment, order or decree, apply to the commissioner for an  
132 order directing payment out of the New Home Construction Guaranty  
133 Fund of the amount, not exceeding thirty thousand dollars, unpaid  
134 upon the judgment, order or decree for actual damages and costs taxed  
135 by the court against such contractor, exclusive of punitive damages.  
136 The application shall be made on forms provided by the commissioner  
137 and shall be accompanied by a [certified] copy of the court judgment,  
138 order or decree obtained against the new home construction contractor  
139 together with a notarized affidavit, signed and sworn to by the  
140 consumer, affirming that the consumer has: (1) Complied with all the  
141 requirements of this subsection; (2) obtained a judgment, order or  
142 decree stating the amount of the judgment, order or decree and the  
143 amount owing on the judgment, order or decree at the date of  
144 application; and (3) made a good faith effort to satisfy any such  
145 judgment, order or decree in accordance with the provisions of chapter  
146 906 which effort may include causing to be issued a writ of execution

147 upon such judgment, order or decree but the officer executing the  
148 same has made a return showing that no bank accounts or personal  
149 property of such contractor liable to be levied upon in satisfaction of  
150 the judgment, order or decree could be found, or that the amount  
151 realized on the sale of them or of such of them as were found, under  
152 the execution, was insufficient to satisfy the actual damage portion of  
153 the judgment, order or decree or stating the amount realized and the  
154 balance remaining due on the judgment, order or decree after  
155 application on the judgment, order or decree of the amount realized,  
156 except that the requirements of this subdivision shall not apply to a  
157 judgment, order or decree obtained by the consumer in small claims  
158 court. A true and attested copy of such executing officer's return, when  
159 required, shall be attached to such application and affidavit. Whenever  
160 the consumer satisfies the commissioner or the commissioner's  
161 designee that it is not practicable to comply with the requirements of  
162 subdivision (3) of this subsection and that the consumer has taken all  
163 reasonable steps to collect the amount of the judgment, order or decree  
164 or the unsatisfied part of the judgment, order or decree and has been  
165 unable to collect the same, the commissioner or the commissioner's  
166 designee may, in the commissioner's or the commissioner's designee's  
167 discretion, dispense with the necessity for complying with such  
168 requirement. No application for an order directing payment out of the  
169 fund shall be made later than two years from the final determination  
170 of, or expiration of time for taking, an appeal of such court judgment,  
171 order or decree and no such application shall be for an amount in  
172 excess of thirty thousand dollars.

173 (e) Upon receipt of such application together with such [certified]  
174 copy of the court judgment, order or decree, notarized affidavit and,  
175 except as otherwise provided in subsection (d) of this section, true and  
176 attested copy of the executing officer's return, the commissioner or the  
177 commissioner's designee shall inspect such documents for their  
178 veracity and upon a determination that such documents are complete  
179 and authentic and that the consumer has not been paid, the  
180 commissioner shall order payment out of the New Home Construction  
181 Guaranty Fund of the amount not exceeding thirty thousand dollars

182 unpaid upon the judgment, order or decree for actual damages and  
183 costs taxed by the court against the contractor, exclusive of punitive  
184 damages.

185 (f) Beginning October 1, 2000, whenever a consumer is awarded an  
186 order of restitution against any new home construction contractor for  
187 loss or damages sustained as a result of any violation of the provisions  
188 of sections 20-417a to 20-417j, inclusive, by a person holding a  
189 certificate or who has held a certificate under said sections within the  
190 past two years of the date of entering into the contract with the  
191 consumer, in (1) a proceeding brought by the commissioner pursuant  
192 to subsection (h) of this section or subsection (d) of section 42-110d, as  
193 amended by this act, (2) a proceeding brought by the Attorney General  
194 pursuant to subsection (a) of section 42-110m or subsection (d) of  
195 section 42-110d, as amended by this act, or (3) a criminal proceeding  
196 pursuant to section 20-417e, such consumer may, upon the final  
197 determination of, or expiration of time for taking, an appeal in  
198 connection with any such order of restitution, apply to the  
199 commissioner for an order directing payment out of the New Home  
200 Construction Guaranty Fund of the amount not exceeding thirty  
201 thousand dollars unpaid upon the order of restitution. The  
202 commissioner may issue such order upon a determination that the  
203 consumer has not been paid.

204 (g) Before the commissioner may issue any order directing payment  
205 out of the New Home Construction Guaranty Fund to a consumer  
206 pursuant to subsection (e) or (f) of this section, the commissioner shall  
207 first notify the new home construction contractor of the consumer's  
208 application for an order directing payment out of the fund and of the  
209 new home construction contractor's right to a hearing to contest the  
210 disbursement in the event that such contractor has already paid the  
211 consumer. Such notice shall be given to the new home construction  
212 contractor not later than fifteen days [from the] after receipt by the  
213 commissioner of the consumer's application for an order directing  
214 payment out of the fund. If the new home construction contractor  
215 requests a hearing, in writing, by certified mail not later than fifteen

216 days [from receipt of] after receiving the notice from the commissioner,  
217 the commissioner shall grant such request and shall conduct a hearing  
218 in accordance with the provisions of chapter 54. If the commissioner  
219 does not receive a written request for a hearing by certified mail from  
220 the new home construction contractor on or before the fifteenth day  
221 from the contractor's receipt of such notice, the commissioner shall  
222 conclude that the consumer has not been paid, and the commissioner  
223 shall issue an order directing payment out of the fund for the amount  
224 not exceeding thirty thousand dollars unpaid upon the judgment,  
225 order or decree for actual damages and costs taxed by the court against  
226 the new home construction contractor, exclusive of punitive damages,  
227 or for the amount not exceeding thirty thousand dollars unpaid upon  
228 the order of restitution.

229 (h) The commissioner or the commissioner's designee may proceed  
230 against any new home construction contractor holding a certificate or  
231 who has held a certificate under sections 20-417a to 20-417j, inclusive,  
232 within the past two years of the effective date of entering into the  
233 contract with the consumer, for an order of restitution arising from loss  
234 or damages sustained by any consumer as a result of any violation of  
235 the provisions of said sections 20-417a to 20-417j, inclusive. Any such  
236 proceeding shall be held in accordance with the provisions of chapter  
237 54. In the course of such proceeding, the commissioner or the  
238 commissioner's designee shall decide whether to (1) exercise the  
239 powers specified in section 20-417c, (2) order restitution arising from  
240 loss or damages sustained by any consumer as a result of any violation  
241 of the provisions of sections 20-417a to 20-417j, inclusive, and (3) order  
242 payment out of the New Home Construction Guaranty Fund.  
243 Notwithstanding the provisions of chapter 54, the decision of the  
244 commissioner or the commissioner's designee shall be final with  
245 respect to any proceeding to order payment out of the fund and the  
246 commissioner and the commissioner's designee [are exempted from]  
247 shall not be subject to the requirements of chapter 54 as such  
248 requirements relate to an appeal from any such decision. The  
249 commissioner or the commissioner's designee may hear complaints of  
250 all consumers submitting claims against a single new home



251 construction contractor in one proceeding.

252 (i) No application for an order directing payment out of the New  
253 Home Construction Guaranty Fund shall be made later than two years  
254 from the final determination of, or expiration of time for, an appeal in  
255 connection with any judgment, [or] order or decree of restitution, and  
256 no such application shall be for an amount in excess of thirty thousand  
257 dollars.

258 (j) In order to preserve the integrity of the New Home Construction  
259 Guaranty Fund, the commissioner, in the commissioner's sole  
260 discretion, may order payment out of the fund of an amount less than  
261 the actual loss or damages incurred by the consumer or less than the  
262 order of restitution awarded by the commissioner or the Superior  
263 Court. In no event shall any payment out of the fund be in excess of  
264 thirty thousand dollars for any single claim by a consumer.

265 (k) If the money deposited in the New Home Construction  
266 Guaranty Fund is insufficient to satisfy any duly authorized claim or  
267 portion of a claim, the commissioner shall, when sufficient money has  
268 been deposited in the fund, satisfy such unpaid claims or portions of  
269 claims not exceeding thirty thousand dollars, in the order that such  
270 claims or portions of claims were originally determined.

271 (l) Whenever the commissioner has caused any sum to be paid from  
272 the New Home Construction Guaranty Fund to a consumer, the  
273 commissioner shall be subrogated to all of the rights of the consumer  
274 up to the amount paid plus reasonable interest, and prior to receipt of  
275 any payment from the fund, the consumer shall assign all of the  
276 consumer's right, title and interest in the claim up to such amount to  
277 the commissioner, and any amount and interest recovered by the  
278 commissioner on the claim shall be deposited [to] in the fund.

279 (m) If the commissioner orders the payment of any amount as a  
280 result of a claim against a new home construction contractor, the  
281 commissioner shall determine if such contractor is possessed of assets  
282 liable to be sold or applied in satisfaction of the claim on the New

283 Home Construction Guaranty Fund. If the commissioner discovers any  
284 such assets, the commissioner may request that the Attorney General  
285 take any action necessary for the reimbursement of the fund.

286 (n) If the commissioner orders the payment of an amount as a result  
287 of a claim against a new home construction contractor, the  
288 commissioner may, after notice and hearing in accordance with the  
289 provisions of chapter 54, revoke the certificate of such contractor and  
290 such contractor shall not be eligible to receive a new or renewed  
291 certificate until such contractor has repaid such amount in full, plus  
292 interest from the time such payment is made from the New Home  
293 Construction Guaranty Fund, at a rate to be in accordance with section  
294 37-3b, except that the commissioner may, in the commissioner's sole  
295 discretion, permit a new home construction contractor to receive a new  
296 or renewed certificate after such contractor has entered into an  
297 agreement with the commissioner whereby such contractor agrees to  
298 repay the fund in full in the form of periodic payments over a set  
299 period of time. Any such agreement shall include a provision  
300 providing for the summary suspension of any and all certificates held  
301 by the new home construction contractor if payment is not made in  
302 accordance with the terms of the agreement.

303 Sec. 6. Section 20-432 of the general statutes is repealed and the  
304 following is substituted in lieu thereof (*Effective October 1, 2015, and*  
305 *applicable to orders and decrees entered on or after said date*):

306 (a) The commissioner shall establish and maintain the Home  
307 Improvement Guaranty Fund.

308 (b) Each salesman who receives a certificate pursuant to this chapter  
309 shall pay a fee of forty dollars annually. Each contractor who receives a  
310 certificate pursuant to this chapter shall pay a fee of one hundred  
311 dollars annually to the guaranty fund. [Said] Such fee shall be payable  
312 with the fee for an application for a certificate or renewal thereof. The  
313 annual fee for a contractor who receives a certificate of registration as a  
314 home improvement contractor acting solely as the contractor of record  
315 for a corporation [,] shall be waived, provided the contractor of record

316 shall use such registration for the sole purpose of directing,  
317 supervising or performing home improvements for such corporation.

318 (c) Payments received under subsection (b) of this section shall be  
319 credited to the guaranty fund until the balance in such fund equals  
320 seven hundred fifty thousand dollars. Annually, if [such fund has an  
321 excess] the balance in the fund exceeds seven hundred fifty thousand  
322 dollars, the first four hundred thousand dollars of the excess shall be  
323 deposited into the consumer protection enforcement account  
324 established in section 21a-8a. Any excess thereafter shall be deposited  
325 in the General Fund. Any money in the guaranty fund may be invested  
326 or reinvested in the same manner as funds of the state employees  
327 retirement system, and the interest arising from such investments shall  
328 be credited to the guaranty fund.

329 (d) Whenever an owner obtains a court judgment, order or decree  
330 against any contractor holding a certificate or who has held a  
331 certificate under this chapter within the past two years of the effective  
332 date of entering into the contract with the owner, for loss or damages  
333 sustained by reason of performance of or offering to perform a home  
334 improvement within this state by a contractor holding a certificate  
335 under this chapter, such owner may, upon the final determination of,  
336 or expiration of time for, taking an appeal in connection with any such  
337 judgment, order or decree, apply to the commissioner for an order  
338 directing payment out of said guaranty fund of the amount unpaid  
339 upon the judgment, order or decree, for actual damages and costs  
340 taxed by the court against the contractor, exclusive of punitive  
341 damages. The application shall be made on forms provided by the  
342 commissioner and shall be accompanied by a copy of the court  
343 judgment, order or decree obtained against the contractor together  
344 with a notarized affidavit, signed and sworn to by the owner,  
345 affirming that: (1) He or she has complied with all the requirements of  
346 this subsection; (2) he or she has obtained a judgment, order or decree,  
347 stating the amount thereof and the amount owing thereon at the date  
348 of application; and (3) he or she has caused to be issued a writ of  
349 execution upon said judgment, order or decree and the officer

350 executing the same has made a return showing that no bank accounts  
351 or personal property of the contractor liable to be levied upon in  
352 satisfaction of the judgment, order or decree could be found, or that  
353 the amount realized on the sale of them or of such of them as were  
354 found, under the execution, was insufficient to satisfy the actual  
355 damage portion of the judgment, order or decree or stating the amount  
356 realized and the balance remaining due on the judgment, order or  
357 decree after application thereon of the amount realized, except that the  
358 requirements of this subdivision shall not apply to a judgment, order  
359 or decree obtained by the owner in small claims court. A true and  
360 attested copy of said executing officer's return, when required, shall be  
361 attached to such application and affidavit. No application for an order  
362 directing payment out of the guaranty fund shall be made later than  
363 two years [from] after the final determination of, or expiration of time  
364 for, taking an appeal of said court judgment, order or decree.

365 (e) Upon receipt of said application together with said copy of the  
366 court judgment, order or decree, notarized affidavit and true and  
367 attested copy of the executing officer's return, the commissioner or his  
368 designee shall inspect such documents for their veracity and upon a  
369 determination that such documents are complete and authentic, and a  
370 determination that the owner has not been paid, the commissioner  
371 shall order payment out of the guaranty fund of the amount unpaid  
372 upon the judgment, order or decree for actual damages and costs taxed  
373 by the court against the contractor, exclusive of punitive damages.

374 (f) Whenever an owner is awarded an order of restitution against  
375 any contractor for loss or damages sustained by reason of performance  
376 of or offering to perform a home improvement in this state by a  
377 contractor holding a certificate or who has held a certificate under this  
378 chapter within the past two years of the date of entering into the  
379 contract with the owner, in a proceeding brought by the commissioner  
380 pursuant to this section or subsection (d) of section 42-110d, as  
381 amended by this act, or in a proceeding brought by the Attorney  
382 General pursuant to subsection (a) of section 42-110m or subsection (d)  
383 of section 42-110d, as amended by this act, or a criminal proceeding

384 pursuant to section 20-427, such owner may, upon the final  
385 determination of, or expiration of time for, taking an appeal in  
386 connection with any such order of restitution, apply to the  
387 commissioner for an order directing payment out of said guaranty  
388 fund of the amount unpaid upon the order of restitution. The  
389 commissioner may issue said order upon a determination that the  
390 owner has not been paid.

391 (g) Before the commissioner [shall] may issue any order directing  
392 payment out of the guaranty fund to an owner pursuant to subsections  
393 (e) or (f) of this section, the commissioner shall first notify the  
394 contractor of the owner's application for an order directing payment  
395 out of the guaranty fund and of the contractor's right to a hearing to  
396 contest the disbursement in the event that the contractor has already  
397 paid the owner or is complying with a payment schedule in  
398 accordance with a court judgment, order or decree. Such notice shall  
399 be given to the contractor [within] not later than fifteen days [of the]  
400 after receipt by the commissioner of the owner's application for an  
401 order directing payment out of the guaranty fund. If the contractor  
402 requests a hearing<sub>z</sub> in writing<sub>z</sub> by certified mail [within] not later than  
403 fifteen days [of receipt of] after receiving the notice from the  
404 commissioner, the commissioner shall grant such request and shall  
405 conduct a hearing in accordance with the provisions of chapter 54. If  
406 the commissioner [receives no written] does not receive a request by  
407 certified mail from the contractor for a hearing [within] not later than  
408 fifteen days [of] after the contractor's receipt of such notice, the  
409 commissioner shall determine that the owner has not been paid, and  
410 the commissioner shall issue an order directing payment out of the  
411 guaranty fund for the amount unpaid upon the judgment, order or  
412 decree for actual damages and costs taxed by the court against the  
413 contractor, exclusive of punitive damages, or for the amount unpaid  
414 upon the order of restitution.

415 (h) The commissioner or his designee may proceed against any  
416 contractor holding a certificate or who has held a certificate under this  
417 chapter within the past two years of the effective date of entering into

418 the contract with the owner, for an order of restitution arising from  
419 loss or damages sustained by any person by reason of such contractor's  
420 performance of or offering to perform a home improvement in this  
421 state. Any such proceeding shall be held in accordance with the  
422 provisions of chapter 54. In the course of such proceeding, the  
423 commissioner or his designee shall decide whether to exercise his  
424 powers pursuant to section 20-426; whether to order restitution arising  
425 from loss or damages sustained by any person by reason of such  
426 contractor's performance or offering to perform a home improvement  
427 in this state; and whether to order payment out of the guaranty fund.  
428 Notwithstanding the provisions of chapter 54, the decision of the  
429 commissioner or his designee shall be final with respect to any  
430 proceeding to order payment out of the guaranty fund and the  
431 commissioner and his designee [are exempted from] shall not be  
432 subject to the requirements of chapter 54 as they relate to appeal from  
433 any such decision. The commissioner or his designee may hear  
434 complaints of all owners submitting claims against a single contractor  
435 in one proceeding.

436 (i) No application for an order directing payment out of the  
437 guaranty fund shall be made later than two years from the final  
438 determination of, or expiration of time for, appeal in connection with  
439 any judgment, [or] order or decree of restitution.

440 (j) Whenever the owner satisfies the commissioner or his designee  
441 that it is not practicable to comply with the requirements of  
442 subdivision (3) of subsection (d) of this section and that the owner has  
443 taken all reasonable steps to collect the amount of the judgment, order  
444 or decree or the unsatisfied part thereof and has been unable to collect  
445 the same, the commissioner or his designee may in his discretion  
446 dispense with the necessity for complying with such requirement.

447 (k) In order to preserve the integrity of the guaranty fund, the  
448 commissioner, in the commissioner's sole discretion, may order  
449 payment out of said fund of an amount less than the actual loss or  
450 damages incurred by the owner or less than the order of restitution

451 awarded by the commissioner or the Superior Court. In no event shall  
452 any payment out of said guaranty fund be in excess of fifteen thousand  
453 dollars for any single claim by an owner.

454 (l) If the money deposited in the guaranty fund is insufficient to  
455 satisfy any duly authorized claim or portion thereof, the commissioner  
456 shall, when sufficient money has been deposited in the fund, satisfy  
457 such unpaid claims or portions thereof, in the order that such claims or  
458 portions thereof were originally determined.

459 (m) [When] Whenever the commissioner has caused any sum to be  
460 paid from the guaranty fund to an owner, the commissioner shall be  
461 subrogated to all of the rights of the owner up to the amount paid plus  
462 reasonable interest, and prior to receipt of any payment from the  
463 guaranty fund, the owner shall assign all of this right, title and interest  
464 in the claim up to such amount to the commissioner, and any amount  
465 and interest recovered by the commissioner on the claim shall be  
466 deposited to the guaranty fund.

467 (n) If the commissioner orders the payment of any amount as a  
468 result of a claim against a contractor, the commissioner shall determine  
469 if the contractor is possessed of assets liable to be sold or applied in  
470 satisfaction of the claim on the guaranty fund. If the commissioner  
471 discovers any such assets, he may request that the Attorney General  
472 take any action necessary for the reimbursement of the guaranty fund.

473 (o) If the commissioner orders the payment of an amount as a result  
474 of a claim against a contractor, the commissioner may, after notice and  
475 hearing in accordance with the provisions of chapter 54, revoke the  
476 certificate of the contractor and the contractor shall not be eligible to  
477 receive a new or renewed certificate until he has repaid such amount  
478 in full, plus interest from the time said payment is made from the  
479 guaranty fund, at a rate to be in accordance with section 37-3b, except  
480 that the commissioner may, in his sole discretion, permit a contractor  
481 to receive a new or renewed certificate after that contractor has entered  
482 into an agreement with the commissioner whereby the contractor  
483 agrees to repay the guaranty fund in full in the form of periodic

484 payments over a set period of time. Any such agreement shall include  
485 a provision providing for the summary suspension of any and all  
486 certificates held by the contractor if payment is not made in accordance  
487 with the terms of the agreement.

488 Sec. 7. Subsection (a) of section 20-515 of the general statutes is  
489 repealed and the following is substituted in lieu thereof (*Effective*  
490 *October 1, 2015*):

491 (a) A person who is certified or provisionally licensed in another  
492 state as a real estate appraiser may become a certified or provisionally  
493 licensed real estate appraiser in this state by conforming to all of the  
494 provisions of sections 20-500 to 20-528, inclusive. The commission shall  
495 recognize a current, valid certification or provisional license, as the  
496 case may be, issued to a currently practicing, competent real estate  
497 appraiser by another state as satisfactorily qualifying such appraiser  
498 for a certification or provisional license, as the case may be, as a real  
499 estate appraiser under said sections, provided [:(1) The laws of the  
500 state in which such appraiser is certified or provisionally licensed  
501 allow certifications or provisional licenses, as the case may be, to be  
502 issued to a resident of this state, without examination, who is certified  
503 or provisionally licensed, as the case may be, under said sections 20-  
504 500 to 20-528, inclusive, and (2)] the certification and provisional  
505 licensing requirements of the state in which such appraiser is licensed  
506 are substantially similar to or higher than those of this state, including  
507 establishment of competency by written examination in the case of  
508 certified appraisers, and such appraiser has no disciplinary proceeding  
509 or unresolved complaint pending against such appraiser. If the  
510 applicant is licensed in a state that does not have such requirements,  
511 such applicant shall be certified or provisionally licensed by a state in  
512 accordance with Section 1116 of Title XI of FIRREA.

513 Sec. 8. Subsection (d) of section 42-110d of the general statutes is  
514 repealed and the following is substituted in lieu thereof (*Effective*  
515 *October 1, 2015*):

516 (d) Said commissioner, in conformance with sections 4-176e to 4-



185, inclusive, whenever he has reason to believe that any person has been engaged or is engaged in an alleged violation of any provision of this chapter, shall mail to such person, by certified mail, a complaint stating the charges and containing a notice of a hearing, to be held upon a day and at a place therein fixed at least fifteen days after the date of such complaint. The person so notified shall have the right to file a written answer to the complaint and charges therein stated and appear at the time and place so fixed for such hearing, in person or otherwise, with or without counsel, and submit testimony and be fully heard. Any person may make application, and upon good cause shown shall be allowed by the commissioner to intervene and appear in such proceeding by counsel or in person. The testimony in any such proceeding, including the testimony of any intervening person, shall be under oath and shall be reduced to writing by the recording officer of the hearing and filed in the office of the commissioner. The commissioner or his authorized representatives shall have the power to require by subpoena the attendance and testimony of witnesses and the production of any documentary material at such proceeding. If upon such hearing the commissioner is of the opinion that the method of competition or the act or practice in question is prohibited by this chapter, the commissioner shall make a report in writing to the person complained of in which he shall state his findings as to the facts and shall forward by certified mail to such person an order to cease and desist from using such methods of competition or such act or practice, or, if the amount involved is less than [five] ten thousand dollars, an order directing restitution, or both. The commissioner may apply for the enforcement of any cease and desist order, order directing restitution or consent order issued under this chapter to the superior court for the judicial district of Hartford, or to any judge thereof if the same is not in session, for orders temporarily and permanently restraining and enjoining any person from continuing violations of such cease and desist order, order directing restitution or consent order. Such application for a temporary restraining order, temporary and permanent injunction, order directing restitution and for such other appropriate decree or process shall be brought and the

552 proceedings thereon conducted by the Attorney General.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	7-173
Sec. 2	<i>October 1, 2015</i>	7-176
Sec. 3	<i>October 1, 2015</i>	7-185a(h)
Sec. 4	<i>October 1, 2015</i>	20-304a
Sec. 5	<i>October 1, 2015, and applicable to orders and decrees entered on or after said date</i>	20-417i
Sec. 6	<i>October 1, 2015, and applicable to orders and decrees entered on or after said date</i>	20-432
Sec. 7	<i>October 1, 2015</i>	20-515(a)
Sec. 8	<i>October 1, 2015</i>	42-110d(d)

**GL**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill results in no fiscal impact to the state as it makes technical changes to the statutes regarding the Department of Consumer Protection.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sSB 975*****AN ACT MAKING MINOR AND TECHNICAL CHANGES TO  
DEPARTMENT OF CONSUMER PROTECTION STATUTES.*****SUMMARY:**

This bill increases, from \$5,000 to \$10,000, the maximum restitution amount the Department of Consumer Protection (DCP) commissioner may order a respondent (the subject of the hearing) to pay a consumer under the Connecticut Unfair Trade Practices Act (CUTPA) (see BACKGROUND).

The bill also makes various other unrelated changes in the consumer protection statutes. It:

1. allows consumers who apply to the Home Improvement and New Home Construction Guaranty funds to receive payment if they receive court orders and decrees, rather than just court judgments, as under current law;
2. no longer requires the certification of copies of court judgments consumers provide to DCP when applying for New Home Construction Guaranty Fund payments;
3. amends the bazaars and raffles permitting process;
4. allows golf ball-drop raffles to be conducted from a pay loader, bucket truck, crane or similar vehicle, or platform, rather than just from a helicopter, hot air balloon, or other hovering aircraft; and
5. makes technical changes concerning fire sprinkler lay out licenses and real estate appraisers, thereby conforming the law to current practice by respectively removing (a) certain licenses

that are not exempt from certification requirements from the list of exemptions and (b) language that does not comply with federal guidelines.

The bill also makes other technical changes.

EFFECTIVE DATE: October 1, 2015, and the guaranty fund provisions are applicable to orders and decrees entered on and after that date.

### **BAZAARS AND RAFFLES PERMIT**

The bill amends the bazaars and raffles permitting process by eliminating the requirement that (1) applicants submit duplicate applications to DCP and (2) the DCP commissioner forward the duplicate application to the municipality where the event will be held. (The bill does not require DCP to submit the original application to the municipality, but presumably the department will do this in practice.)

The bill also specifies that the bazaars and raffles permit fees are remitted to the municipality upon permit issuance. By law, unchanged by the bill, both the municipality and DCP retain the same application review powers and fee amounts.

### **BACKGROUND**

#### **CUTPA**

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys' fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

***Home Improvement and New Home Construction Guaranty Funds***

The Home Improvement and New Home Construction Guaranty funds are separate funds that can reimburse consumers unable to collect for work performed by either a registered (1) home improvement contractor or salesman or (2) new home builder.

To collect from either fund, a consumer must have been awarded a court judgment which the contractor lacked the funds to satisfy. Consumers must apply to DCP to receive payments.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/12/2015)